

## **REMARKS**

Claims 1 and 3 – 9 and 19 - 24 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 102**

The Examiner rejected claims 1 – 6, 8 and 19 under 35 U.S.C. § 102(b) as being anticipated by GB 630 494. Applicants have amended claims 1 and 19, the independent claims of this group and submit that as amended, these claims are allowable.

Amended claim 1 is directed to a food waste disposer. As amended, it requires a discharge chamber generally surrounding the grinding mechanism where the discharge chamber has a discharge port that is tangential to a rotatable shredder plate. The tangential nature of the discharge port is shown in Figs. 1, 3, 5 and 6 of the drawings of the present application. Assuming that GB 630 494 shows a food waste disposer having a discharge chamber generally surrounding a grinding mechanism, the discharge port is not tangential to the rotatable shredder plate as required by amended claim 1. Rather, the discharge port (where annular trough 22 opens to discharge pipe 24) is perpendicular to the tangent of the rotatable shredder plate as can be seen in Fig. 1 of GB 630 494. Applicants submit that amended claim 1 is thus allowable over GB 630 494. Amended claim 19 similarly requires discharging the ground food waste from the grinding mechanism tangentially to the shredder plate via a discharge chamber surrounding the grinding mechanism and through a discharge port of the discharge chamber that is tangential to the shredder plate and is thus allowable over GB 630 494.

Claims 3 – 6 and 8 depend directly or indirectly from amended claim 1 and are allowable for at least that reason.

## REJECTION UNDER 35 U.S.C. § 103

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over GB 630 494. Claims 9 and 20 – 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over GB 630 494 as applied to claim 1 and further in view of Hogue (US 3,163,369).

Turning first to claim 7, claim 7 depends indirectly from amended claim 1 and is allowable for at least that reason.

Second, claim 7 requires that the gap between the discharge chamber and the grind ring defines a cross-sectional area that increases from a first location to the discharge port. Acknowledging that GB 630 494 does not show such a gap, the Examiner takes the position that such a feature is well known in the art and it would thus be obvious to modify GB 630 494 to have such a feature. But the Examiner not only failed to cite any art as disclosing such a gap, let alone art pertaining to food waste disposers, but also failed to provide any explicit basis as to why such a gap is well known in the art, particularly art pertaining to food waste disposers. And by failing to do so, the Examiner has failed to establish a *prima facie* case of obviousness. [See, MPEP § 2144.03]. In this regard, applicants submit that such a gap is not well known in the pertinent art – the art pertaining to food waste disposers.

As to claim 9, applicants have rewritten claim 9 into independent form incorporating the limitations of claim 1 (prior to the amendments made to claim by in this response). Claim 9 requires, *inter alia*, that the motor is a brushless permanent magnet motor. The Examiner, acknowledging that GB 634 494 does not disclose a food waste disposer having a brushless permanent magnet motor, cites Hogue as doing so. But the only types of motors Hogue explicitly discloses are induction motors and series motors, which are not brushless permanent magnet motors.

Turning now to a consideration of the motor assembly 13 and in particular to FIGURE 1 it should be understood that while an induction motor design is shown for purposes of illustration it will be clear to those skilled in this art that this same invention could be

used in other motor designs, as it has been done with series motors with equal success. [Hogue, col. 4, lines 53 – 59]

Similarly, claim 20, which depends from amended claim 19, also requires that the motor is a brushless permanent magnet motor. Claim 20 is also allowable as depending from amended claim 19.

Claims 21 – 24 depend directly or indirectly from claim 9 and are allowable for at least that reason.

### CONCLUSION

Applicants submit that a full and complete response has been made to the outstanding Office Action, that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot, and that the present application is in condition for allowance. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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